

April 13, 2010

DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: Joan S. Sherwood

Date of Filing: March 16, 2010

Case Number: TFA-0359

On March 16, 2010, Joan S. Sherwood filed an Appeal from a determination issued to her on February 22, 2010, by the Department of Energy's Naval Reactors Laboratory Field Office (NRL). That determination was issued in response to a request for information that Ms. Sherwood submitted under the Freedom of Information Act, 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. Ms. Sherwood asks that NRL conduct an additional search for documents responsive to her request.

I. Background

Ms. Sherwood filed a request for information on behalf of her father, Mr. Francis H. Sherwood, who worked at the Separations Research Unit in Schenectady, New York from December 1954 through June 1955 and at the Hanford Site from 1956 to 1988. In her request, she sought copies of her father's medical records and exposure records. Upon receiving Ms. Sherwood's request, NRL conducted a search, but found no responsive documents. On March 16, 2010, Ms. Sherwood filed the present Appeal with the Office of Hearings and Appeals (OHA). In her Appeal, Ms. Sherwood challenges the adequacy of the search conducted by NRL. *See* Appeal Letter. She asserts that responsive documents may be found in a number of additional locations and asks OHA to direct NRL to conduct a new search for responsive documents.

II. Analysis

We have stated on numerous occasions that a FOIA request deserves a thorough and conscientious search for responsive documents, and we have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Butler, Vines and Babb, P.L.L.C.*, 25 DOE ¶ 80,152 (1995). The FOIA, however, requires that a search be reasonable, not exhaustive. "[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought material." *Miller v. Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord, Weisberg*

v. Department of Justice, 745 F.2d 1476, 1485 (D.C. Cir. 1984). The fact that the results of a search do not meet the requester's expectations does not necessarily mean that the search was inadequate. Instead, in evaluating the adequacy of a search, our inquiry generally focuses on the scope of the search that was performed. *Information Focus on Energy*, 26 DOE ¶ 80,240 (1997).

In reviewing the present Appeal, we contacted officials in NRL to ascertain the extent of the search that had been performed and to determine whether any other documents responsive to Ms. Sherwood's request might reasonably be located. Upon receiving Mr. Sherwood's request for information, NRL determined that the records sought by Ms. Sherwood would be maintained by the Management and Operating contractor at the Knolls Atomic Power Laboratory, currently Bechtel Marine Propulsion Corporation (BMPC). NRL informed us that BMPC searched for any medical or exposure records or other potentially relevant records in the following departments of the organization: Human Resources, Safety, Medical, Security, and Dosimetry. NRL further informed us that records were searched by name, social security number, date of birth and in multiple spelling variations, and no responsive documents were located. *See* Response from C.P. Nunn, Chief Counsel, NRL, to Kimberly Jenkins-Chapman, OHA (April 5, 2010). Given the facts presented to us, we find that NRL conducted an adequate search which was reasonably calculated to discover documents responsive to Ms. Sherwood's request. Accordingly, Ms. Sherwood's Appeal should therefore be denied.

It Is Therefore Ordered That:

- (1) The Appeal filed by Joan S. Sherwood, OHA Case No. TFA-0359, on March 16, 2010, is hereby denied.
- (2) This is a final Order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to the provisions of 5 U.S.C. § 552a (a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

Poli A. Marmolejos
Director
Office of Hearings and Appeals

Date: April 13, 2010